

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR KENT COUNTY

STATE OF DELAWARE)
) RK12-02-0204-01
v. _____)
)
LYDIA V. HOFFMAN,)
(ID. No. 1201022515))
)
Defendant.)

Submitted: November 4, 2013
Decided: November 5, 2013

Dennis Kelleher, Esq., Deputy Attorney General, Department of Justice, for the State of Delaware.

Lydia V. Hoffman, *Pro se*.

Upon Consideration of Defendant's
Motion For Postconviction Relief
Pursuant to Superior Court Criminal Rule 61
DENIED

YOUNG, Judge

State v. Hoffman
ID. No. 1201022515
November 5, 2013

ORDER

Upon consideration of the Defendant's Motion For Postconviction Relief, the Commissioner's Report and Recommendation and the record in this case, it appears that:

1. The Defendant, Lydia V. Hoffman ("Hoffman"), pled guilty on July 5, 2012 to one count of Driving Under the Influence of Alcohol and/or Drugs, 21 *Del. C.* § 4177. In exchange for Hoffman's plea, the State entered a *nolle prosequis* on the remaining charges of one count of Driving While License was Suspended or Revoked, one count of Improper Lane Change and one count of Failing to Signal. The State and the Defense, jointly recommended Hoffman receive ninety days at Level V followed by probation. The Court agreed and sentenced Hoffman according to the Plea Agreement.

2. The Defendant did not appeal her conviction or sentence to the Delaware Supreme Court; instead she filed, *pro se*, the pending Motion For Postconviction Relief pursuant to Superior Court Criminal Rule 61. In her motion the defendant raises the following grounds for relief:: 1) Time limitations; 2) Fine amount; 3) Ineffective assistance of counsel; and 4) Entry of guilty plea prior to full understanding of 21 *Del. C.* § 4177 subsequent offense.

3. The Court referred this motion to Superior Court Commissioner Andrea M. Freud pursuant to 10 *Del. C.* §512(b) and Superior Court Criminal Rule 62 for proposed findings of facts and conclusions of law.

4. The Commissioner has filed a Report and Recommendation concluding that the Motion For Postconviction Relief should be denied, because it is procedurally

State v. Hoffman

ID. No. 1201022515

November 5, 2013

barred by Rule 61(i)(3) for failure to demonstrate cause and prejudice.

NOW, THEREFORE, after *de novo* review of the record in this action, and for reasons stated in the Commissioner's Report and Recommendation dated August 6, 2013,

IT IS ORDERED that the Commissioner's Report and Recommendation is adopted by the Court, and the Defendant's Motion for Postconviction Relief is **DENIED**.

/s/ Robert B. Young

J.

RBV/lmc

oc: Prothonotary

cc: The Honorable Andrea M. Freud

Dennis Kelleher, Esq.

Paul S Swierzbinski, Esq.

Lydia V. Hoffman

File